

Message Text

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ACTION EB-07

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TO SECSTATE WASHDC 3173

INFO AMEMBASSY LISBON

AMEMBASSY LONDON

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E.O. 11652: N/A

TAGS: ETRD EAGR AO

SUBJECT: COFFEE: ANGOLAN VIEW OF LEGAL ACTION

REF: STATE 276349

1. IN ITS TELEGRAM 276349 THE DEPARTMENT GAVE SOME BACKGROUND ON THE SUIT BROUGHT BY FIVE COFFEE IMPORTERS AGAINST A NUMBER OF ANGOLAN EXPORTERS AND U.S. IMPORTERS IN WHICH THE PLAINTIFFS ALLEGE A CONSPIRACY TO FIX THE PRICE OF ANGOLAN COFFEE ARTIFICIALLY HIGH THROUGH UNFAIR ACTS AND METHODS WHICH RESTRAINED COMPETITION. THE DEPARTMENT ALSO ASKED FOR INFORMATION ON ANY DECISION BY THE GOVERNMENT TO PROHIBIT THE EXPORT OF COFFEE BELOW A SPECIFIC PRICE AND SOME INSIGHTS INTO WHO MAKES ANGOLA'S COFFEE POLICY.

2. WITH RESPECT TO MINIMUM PRICES, THE ANGOLAN COFFEE INSTITUTE ESTABLISHES PRICES PERIODICALLY AFTER CONSULTATION WITH THE COFFEE COUNCIL. THIS LATTER BODY IS MADE UP OF ONE REPRESENTATIVE EACH OF THE EXPORTERS AND PRODUCERS, A REPRESENTATIVE FROM THE BUREAU OF COMMERCIAL SERVICES AND THE DIRECTOR AND ASSISTANT DIRECTOR OF LIMITED OFFICIAL USE

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THE COFFEE INSTITUTE. THE COUNCIL IS ADVISORY IN NATURE AND THE

DIRECTOR OF THE INSTITUTE NEED NOT FOLLOW ITS ADVICE. IN ANY EVENT, THE GOVERNMENT HAS A MAJORITY OF THREE MEMBERS ON THE COUNCIL. THE COFFEE INSTITUTE IS AN AUTONOMOUS AGENCY WHOSE LINKS WITH THE CENTRAL GOVERNMENT ARE THROUGH THE SECRETARY FOR AGRICULTURE. PRIOR TO NOVEMBER 27, 1974 THE DIRECTOR AND ASSISTANT DIRECTOR OF THE INSTITUTE WERE PROPOSED BY THE GOVERNOR GENERAL OF ANGOLA AND APPOINTED BY THE OVERSEAS MINISTRY IN LISBON. ON NOVEMBER 27 THE PORTUGUESE GOVERNMENT GAVE THE HIGH COMMISSIONER OF ANGOLA APPOINTIVE POWER OVER POSITIONS IN THE ANGOLAN GOVERNMENT. THE ANGOLAN COFFEE INSTITUTE WAS CREATED IN 1961. PRIOR TO THAT TIME, BEGINNING IN 1941, COFFEE MATTERS WERE THE RESPONSIBILITY OF A COFFEE EXPORT BOARD WITH ITS SEAT IN LISBON.

3. THE DECREE THAT ESTABLISHED THE COFFEE INSTITUTE, ARTICLE THREE, SUBPARAGRAPH TWELVE, STATES THAT THE INSTITUTE SHALL "FIX MINIMUM PRICES FOR THE EXPORT OF COFFEE." THIS AUTHORITY CARRIED ON THAT BEGUN UNDER THE COFFEE BOARD. THUS, THE SYSTEM OF FIXING MINIMUM PRICES FOR THE EXPORT OF ANGOLAN COFFEE BEGAN OVER THIRTY YEARS AGO. EXPORTERS MAY NOT MAKE CONTRACTS AT LESS THAN THE PRICE SET BY THE INSTITUTE. TO PREVENT SPECULATION WITH THE INSTITUTE'S INTENTION, EXPORTERS ARE REQUIRED TO REGISTER CONTRACTS WITHIN TWENTY FOUR HOURS.

4. THE ANGOLAN COFFEE INSTITUTE IS AUTONOMOUS IN THEORY AND PRACTISE. THE INSTITUTE'S DECISIONS AND LINES OF ACTION ARE ALMOST NEVER OVERRULED, AND THE CENTRAL GOVERNMENT DOES NOT ATTEMPT TO SECOND GUESS OPERATIONS. THE SECRETARY OF AGRICULTURE ON OCCASION WILL INFORM THE INSTITUTE'S DIRECTOR OF OVERALL GOVERNMENTAL GOALS, COURSES OF ACTION AND STRATEGIES FROM WHICH THE DIRECTOR AND THE COUNCIL TAKE THEIR CUE. THE COFFEE COUNCIL NORMALLY MEETS ONCE A WEEK, HENCE THERE IS CONSTANT COMMUNICATION AMONG INTERESTED PARTIES. FOR EXAMPLE, WHEN THE ANGOLAN EXPORTERS DECIDED TO BUY UP A NUMBER OF PAPER CONTRACTS (SEE BELOW) IN ORDER TO KEEP UP THE PRICE THEY INFORMED THE CENTRAL GOVERNMENT AND THE COFFEE INSTITUTE. THEY SAID THAT ANY PROFITS WOULD ACCRUE TO THE GOVERNMENT; THEY HOPED THAT THE GOVERNMENT WOULD BY THE SAME TOKEN SHARE IN ANY LOSSES INCURRED IN THE OPERATION.

5. AS FOR THE ALLEGED CONSPIRACY, I HAVE PIECED TOGETHER THE FOLLOWING VERSION OF WHAT HAPPENED. WHEN COFFEE PRICES BEGAN TO LIMITED OFFICIAL USE

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RISE LATE IN 1973 THE COFFEE INSTITUTE GRADUALLY RAISED THE MINIMUM PRICE AND IN APRIL, 1974 SET THE PRICE AT 62.50. AFTER THAT POINT THE INTERNATIONAL MARKET BECAME VERY UNSTABLE AND THE INSTITUTE DECIDED TO HOLD THE PRICE AT 62.50 AND AWAIT DEVELOPMENTS. IN JULY THE INSTITUTE PARTICIPATED IN A MEETING OF PRODUCING NATIONS IN PARIS, WHERE IT WAS AGREED TO RETAIN EXPORTS TO PROTECT PRICES.

6. MEANWHILE, THE PORTUGUESE ARMED FORCES ON APRIL 25 ENDED THE LONG DICTATORSHIP AND ANNOUNCED THEIR INTENT TO GIVE INDEPENDENCE TO PORTUGAL'S COLONIES. THERE ENSUED INCREASING POLITICAL AND ECONOMIC INSTABILITY IN ANGOLA, AND THE U.S. AND EUROPEAN PRESS GAVE A GREAT DEAL OF ATTENTION TO DEVELOPMENT HERE AND THE PROSPECTS OF VIOLENCE. MANY IMPORTERS THOUGHT THEY SAW A QUICK WAY TO MAKE MONEY AND SPECULATED WITH ANGOLAN COFFEE. THEY BELIEVED THAT CHAOS WOULD SHORTLY FOLLOW, ANGOLAN EXPORTERS WOULD PANIC AND SELL THEIR COFFEE AT ANY PRICE IN ORDER TO SALVAGE WHAT LITTLE THEY COULD. SPECULATORS SOLD AMBRIZ COFFEE SHORT FOR OCTOBER, NOVEMBER AND DECEMBER, 1974. THE INTERESTING POINT TO ANGOLANS IS THAT THE SPECULATORS DID NOT SELL ROBUSTA SHORT, BUT SPECIFICALLY AMBRIZ, SO THERE IS NO DOUBT WHAT THEY WERE UP TO. THE INSTITUTE DID NOT LOWER ITS MINIMUM PRICE AND WHEN THE TIME CAME TO COVER THE CONTRACTS THE SPECULATORS HAD TO BUY AMBRIZ AT 62.50. A NUMBER OF THEM DID, BUT THE FIVE WHO ARE SUING APPARENTLY DID NOT.

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7. WHEN THE ANGOLAN EXPORTERS REALIZED WHAT WAS UP THEY BOUGHT AS MANY OF THE SHORT CONTRACTS AS THEY COULD AT 56 TO 59 CENTS. EXPORTERS HERE TELL ME THAT OVERALL, ANGOLAN EXPORTERS LOST ABOUT 70,000 DOLLARS IN THEIR ATTEMPT TO KEEP THE PRICE FROM FALLING.

8. SOME OF THOSE SPECULATORS WHO GOT BURNED TOOK THEIR CASES TO THE GREEN COFFEE ASSOCIATION, WHICH RULED AGAINST THEM. ACCORDING TO THOSE IN THE TRADE HERE, THE PLAINTIFFS IN THE PRESENT CASE KNOW THEIR ARGUMENTS WILL NOT STAND UP ON TECHNICAL GROUNDS AND HOPE THROUGH THE EMOTIONS OF AN AMERICAN JURY TO WIN A SETTLEMENT.

9. ACCORDING TO TRADE SOURCES IN LUANDA, ONLY ONE OF THE FIVE PLAINTIFFS IS AN AMERICAN FIRM; THE OTHERS REPRESENT JAPANESE, DUTCH, SWISS AND BRITISH INTERESTS. THE FIVE DO NOT NORMALLY IMPORT MUCH COFFEE INTO THE UNITED STATES. OF THE APPROXIMATELY 120,000 TONS OF ANGOLAN COFFEE IMPORTED INTO THE U.S. IN 1973, INTERESTS REPRESENTED BY THIS GROUP ACCOUNTED FOR ONLY 2,100 TONS. EXPORTERS HERE CLAIM THAT IN 1974 THE FIVE SOLD 8,000 TONS SHORT, A FURTHER INDICATOR OF THE SPECULATIVE NATURE OF THEIR ANGOLAN VENTURE.

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10. I HAVE NO WAY OF KNOWING HOW MUCH OF THE FOREGOING IS AN ACCURATE REPRESENTATION OF WHAT HAPPENED IN THE U.S., BUT I CAN VOUCH FOR THE FACT THAT INTERNATIONAL PRESS REPORTING ON ANGOLA OVER THE PAST SEVERAL MONTHS WOULD CERTAINLY LEAD ONE NOT FAMILIAR WITH THE SITUATION TO CONCLUDE THAT CHAOS WAS IMMINENT AND THAT THERE WAS, INDEED, EASY MONEY TO BE MADE.

11. I WOULD BE INTERESTED IN LEARNING FROM THE DEPARTMENT AND LONDON WHETHER THE CHRONOLOGY OUTLINED ABOVE, AND THE ASSERTIONS MADE BY MY SOURCES ABOUT THE INTENTIONS OF THE PLAINTIFFS SQUARE WITH THE FACTS.

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